

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 2/18/2020

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DANIEL PAGAN,

Plaintiff,

-against-

ZAZZLE, INC., ET AL.,

Defendants. :
:-----X

19 Civ. 10122 (LGS)

ORDER

LORNA G. SCHOFIELD, District Judge:

WHEREAS, this case has been open since October 31, 2019, but Plaintiff has not filed any affidavits of service showing he has served either the original Complaint or Amended Complaint on Defendants. Nor have any Defendants appeared;

WHEREAS, Plaintiff filed an Amended Complaint on January 17, 2020, with requesting leave of the Court. The Order at Dkt. No. 8, dated January 31, 2020 (the “Order”), finds that Plaintiff that he did not have a right to amend under Federal Rule of Civil Procedure 15 without permission from the Court. Because Plaintiff did not *serve* the original Complaint, Plaintiff was not permitted to amend as of right within “21 days after *serving* the Complaint,” as Rule 15(a)(1) provides. Nevertheless, Court accepted the Amended Complaint, on the condition that Plaintiff file the affidavits of service for the Amended Complaint by February 17, 2020. If Plaintiff did not, the Order warned that this action may be dismissed for failure to prosecute;

WHEREAS, the Order at Dkt. No. 9, dated February 5, 2020, warned Plaintiff again that the action may be dismissed for failure to prosecute if he did not file affidavits of service by February 17, 2020;

WHEREAS, Plaintiff has not timely filed any affidavits of service. It is hereby

ORDERED that this action is dismissed for failure to prosecute, without prejudice to an application by Plaintiff to reopen by February 25, 2020, provided that the application attaches the affidavits of service. If the application does not, it may be denied solely on that basis. All pending deadlines and conferences are CANCELED. The Clerk of Court is respectfully directed to mail a copy of this order to Plaintiff and to close the case.

Dated: February 18, 2020
New York, New York

A handwritten signature in black ink, appearing to read 'Lorna G. Schofield', is written over a horizontal line.

LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE